

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1313 OF 2006

Kotak Mahindra Bank Ltd., ...Petitioners.
Versus
The Official Liquidator
of Firth (India) Steel
Ltd., & Ors. ...Respondents.

.....
Mr.Birendra Saraf with Mr.S.Trilokchandani i/b
M/s.M.K.Ambalal & Co. for the Petitioners.

Mrs.K.Gautam, Dy.Official Liquidator present.

Mr.Umesh Shetty for Canara Bank.

Mr.D.M.Thakkar i/b. Pragna Thakkar & Co. for
Respondent No.2.

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CORAM : F.I.REBELLO AND
SMT.V.K.TAHILRAMANI, JJ.

DATED : JUNE 14, 2006.

P.C.:

. Rule. Heard forthwith.

2. Mr.S.C.Gupta Official Liquidator has filed
affidavit. It is pointed therein that the assets
have been charged to the financial institutions
including ICICI Bank. The petitioners' claim
through ICICI. Once that being the case the order
of D.R.T. and D.R.A.T. holding that the claim
was barred by the limitation, cannot be sustained.
A company is not an individual. Once, the

balance-sheet of the company discloses the names of the creditors that would be a admission of liability on the part of the company and that would be the date when point of limitation must be considered. In the instant case the company has been wound up and official liquidator has been appointed. The claims of the petitioners herein have been set out. That being the case, the impugned order suffers from an error of law apparent on the face of record, which warrants interference by this Court. In the light of that Rule is made absolute in terms of prayer clause (a) and (b). No order as to costs.

2. In the meantime we are informed that there are proceedings pending in execution. The proceedings may continue except to the extent of proportionate share in the immovable property secured in favour of the petitioners.

3. Insofar as the other securities are concerned, it is open for the petitioners to put their claim before the executing officer.

[F.I.REBELLO, J.]

. [3] .

[SMT.V.K.TAHILRAMANI, J.]